

*Over. Under
Kulen
V. J. J. J.
J. J. J.*

BEFORE THE
SHORELINES HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF A SUBSTANTIAL)
DEVELOPMENT PERMIT ISSUED BY)
THE CITY OF PORT ANGELES TO)
THE PORT OF PORT ANGELES)

ALICE P. BALL,

Appellant,

vs.

CITY OF PORT ANGELES and)
THE PORT OF PORT ANGELES,)

Respondents.)

SHB No. 107

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER

This matter, the request for review of a substantial development permit issued by the City of Port Angeles to the Port of Port Angeles, came before the Shorelines Hearings Board (Walt Woodward, presiding officer) in the Commissioners' Meeting Room, Clallam County Courthouse, Port Angeles, Washington, at 10:00 a.m., March 1, 1974.

Appellant appeared pro se; Port of Port Angeles through Tyler Moffett, and the City of Port Angeles made no appearance. Richard

Reinertsen, Olympia court reporter, recorded the proceedings.

Witnesses were sworn and testified. Exhibits were admitted.

Appellant and counsel made closing arguments.

From testimony heard, exhibits examined, arguments considered, transcript reviewed and exceptions denied, the Shorelines Hearings Board makes these

FINDINGS OF FACT

I.

On July 30, 1973, the Port of Port Angeles applied for a substantial development permit under chapter 90.58 RCW, from the City of Port Angeles for dredging, bulkheading and filling for ship moorage at the Port's Terminal No. 1, in Port Angeles Bay, Washington. After due public notice and at a public hearing, the City Council of the City of Port Angeles approved the permit on September 18, 1973. On October 15, 1973, appellant filed a request for review of the permit with the Board and on November 9, 1973, both the Attorney General and the Department of Ecology certified the request for review as reasonable.

II.

By stipulation of appellant and the Port of Port Angeles, the shorelines of Port Angeles Harbor are of state-wide significance.

III.

Appellant failed to prove that the permit is inconsistent with chapter 90.58 RCW or WAC 173-16. As of September 18, 1973, there was not in existence any discernible or ascertainable master program of the City of Port Angeles.

IV.

The City Council of the City of Port Angeles, in granting the
FINAL FINDINGS OF FACT,

CONCLUSIONS OF LAW AND ORDER

1 permit failed to consider environmental factors of the proposed project
2 as required by chapter 43.21C RCW, did not submit a finding of no
3 significant environmental impact and did not prepare or consider an
4 environmental impact statement.

5 V.

6 An Conclusion of Law hereinafter recited which should be deemed a
7 Finding of Fact is hereby adopted as such.

8 From these Findings, the Shorelines Hearings Board comes to these

9 CONCLUSIONS OF LAW

10 I.

11 The Shorelines Hearings Board has jurisdiction under chapter
12 90.58 RCW to review the permit and asserts jurisdiction to consider
13 environmental aspects as specified in chapter 43.21C RCW.

14 II.

15 Uncontroverted testimony convinces this Board that the City Council
16 of the City of Port Angeles granted the permit with total disregard for
17 environmental factors and that this disregard is a violation of chapter
18 43.21C RCW, thus making the permit null and void.

19 III.

20 Any Finding of Fact which should be deemed a Conclusion of Law is
21 hereby adopted as such.

22 Therefore, the Shorelines Hearings Board issues this

23 ORDER

24 The substantial development permit issued by the City of Port
25 Angeles on September 18, 1973 to the Port of Port Angeles is hereby
26 vacated without prejudice.

27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

DONE at Lacey, Washington this 28th day of May, 1974.

SHORELINES HEARINGS BOARD

Walt Woodward

WALT WOODWARD, Chairman

W. A. Gissberg

W. A. GISSBERG, Member

Mary Ellen McCaffree

MARY ELLEN McCAFFREE, Member

Robert F. Hintz

ROBERT F. HINTZ, Member